

Atty

French, G Dana (for Stanley Kataoka – Executor – Petitioner)

(1) Final Report and (2) Petition for Settlement Thereof, (3) for Allowance of Attorneys' Compensation, for Allowance of Costs Advanced, and (4) Petition for Final Distribution (Prob. C. 1060 et seq. 10800, 10810, 10811, 1201)

DOD: 9-21-06			STANLEY KATAOKA , Executor with Full IAEA without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Aff.Sub.Wit.		<p>Accounting is waived</p> <p>I&A: \$643,321.00 POH: \$643,321.00 (no cash, various real property interests)</p> <p>Executor (Statutory): Waived</p> <p>Attorney (Statutory): \$11,000.00 (Less than statutory, to be paid outside of probate)</p> <p>Costs: \$2,332.84 (Probate Referee, certified Letters, filing, publication)</p> <p>Decedent's will devises the estate to a testamentary trust for the benefit of his wife, which is distributable to their four children upon her death. Because Decedent's wife has now passed away (post-deceased) Petitioner requests distribution to the four children outright and free of trust.</p> <p>Distribution pursuant to Decedent's will and consent of heirs:</p> <p>Myra Stackpole, Nora Juncal, Mel Kataoka and Stanley Kataoka: A ¼ undivided interest each in various the real property interests of the estate</p>	<p>1. Attorney G. Dana French of Wild, Carter & Tipton has agreed to \$11,000.00, which is less than the statutory amount (\$15,866.42).</p> <p>However, Examiner notes that the former Executor (who passed away in December 2011) was previously represented in this estate by Attorney James M. Kaprielian.</p> <p>Probate Code §10814 states if there are two or more attorneys, compensation shall be apportioned among the attorneys by the court according to the services actually rendered by each attorney or as agreed to by the attorneys.</p> <p>The Court may require clarification regarding the attorney's fees requested with reference to Attorney Kaprielian and Probate Code §10814.</p>
✓	Verified			
✓	Inventory			
✓	PTC			
✓	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	w		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters	4- 4- 12		
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
✓	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			

Reviewed by: skc
Reviewed on: 8-31-12
Updates:
Recommendation:
File 1 - Kataoka

Age: 71		PUBLIC GUARDIAN , Conservator of the Person and Estate, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
DOB: 12-27-40			
		Petitioner states the Conservatee has a life estate interest in a residence that was originally granted to him and his brother by their mother for their joint lives and the life of the survivor. The deed conveyed remainder interests to the California Home for the Aged, Inc., and to the First Armenian Presbyterian Church.	1. Although this is not a traditional sale, Petitioner seeks to abandon the Conservatee's former residence. As such, the Court may require verified information with reference to Probate Code §2450(b): Has the matter been discussed with the Conservatee? Does the Conservatee support or oppose this transaction?
	Aff.Sub.Wit.	The Conservatee's mother died in 2005 and his brother died in 2006, leaving Conservatee as the sole remaining life estate interest holder in the property. He has lived there most of his life, but was removed in June 2011 due to significant health problems and presently remains in a skilled nursing facility in Chowchilla.	2. The Court may also require notice to the remainder beneficiaries and/or their counsel.
✓	Verified		
	Inventory	Public Guardian does not believe the Conservatee's physical and mental health will ever improve to the extent that he can safely return to his residence. His funds are very limited (SSI benefits only) and as long as he resides in a facility or care home, all income must go toward placement costs and personal needs.	Reviewed by: skc
	PTC		
	Not.Cred.	The Conservatee lacks sufficient funds to maintain this sizeable older residence. The home has not been insured since 2009 and property taxes have not been paid since 2009-2010 tax year. The roof has deteriorated to the extent that the air conditioning repair person refused to walk on it.	Reviewed on: 8-31-12
✓	Notice of Hrg		
✓	Aff.Mail	Representatives of the remainder beneficiaries verbally affirmed that they would provide financial assistance to protect their interest in the property. At conservatorship hearing in 2009, Edward Fannuchi, counsel for remainder beneficiaries, appeared and represented that his clients would assist with expenses such as insurance and upkeep. However, no financial assistance has been forthcoming.	Updates:
	Aff.Pub.		
	Sp.Ntc.	Although valued at \$95,000.00 per the I&A filed 11-15-10, it is not feasible to sell the life interest in the property, nor is it practical to rent out the property, as there are no funds to make it habitable for renters.	Recommendation:
	Pers.Serv.		
	Conf. Screen	Petitioner seeks authorization to abandon the real property so that Conservatee no longer has the burden of caring for and maintaining it, as well as terminating his life interest.	File 2 - Setrakian
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Petition for Exclusive Authority to Give Consent for Medical Treatment

Age: 84		PUBLIC GUARDIAN , Conservator, is Petitioner. Petitioner was appointed Conservator of the Person and Estate with medical consent powers and dementia medication powers on 11-2-10. A Capacity Declaration was filed on 9-22-10 with the original petition. Public Guardian did not originally seek dementia placement powers because it was believed that Ms. Miller would not be a flight risk. However, she has recently begun forgetting how to get back into the facility. Petitioner now requests dementia placement powers for placement in a secured perimeter facility in addition to the dementia medication powers.	NEEDS/PROBLEMS/COMMENTS: 1. Attorney Ruth Lind was originally Court-appointed to represent the Conservatee on 10-6-10 in connection with the original petition for conservatorship; <u>however</u>, that appointment was terminated pursuant to Court Order dated 1-25-11. Examiner notes that Petitioner did serve Attorney Lind; however, because she was not formally re-appointed until 9-4-12, continuance for appropriate notice and review may be necessary. <u>Note:</u> The Court may wish to set the matter over to 10-10-12, which is the date currently set for hearing on the Conservator's first account.	
DOB: 11-12-27				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	W		
	Aff.Pub.			
	Sp.Ntc.			
✓	Pers.Serv.	W		
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: skc Reviewed on: 8-31-12 Updates: 9-4-12 Recommendation: File 3 - Miller	

(1) First and Final Account and Report of Executor and Petition for Its Settlement,
 (2) for Allowance of Compensation for Services, (3) Attorney's Fees, and (4) for
 Final Distribution [Prob. C. 10951, 10800, 10810 & 11640]

DOD: 12-14-10		ELDON F. LOLLAR , Executor with Full IAEA without bond, is Petitioner. Account period: 2-8-11 through 7-30-12 Accounting: \$318,163.20 Beginning POH: \$316,349.29 Ending POH: \$293,523.34 (\$31,123.34 is cash) Executor (Statutory): \$9,308.99 Attorney (Statutory): \$9,308.99 Distribution pursuant to Decedent's will: Stephanie Ellen Vogt: Entire estate consisting of \$12,505.36 cash, real property, furnishings, vehicles, etc.	NEEDS/PROBLEMS/COMMENTS:	
<input checked="" type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input checked="" type="checkbox"/>	Inventory			
<input checked="" type="checkbox"/>	PTC			
<input checked="" type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail W			
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input checked="" type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input checked="" type="checkbox"/>	FTB Notice			
				Reviewed by: skc Reviewed on: 9-4-12 Updates: Recommendation: SUBMITTED File 4 - Dilbeck

Petition for Substituted Judgment to Deposit Funds into Special Needs Trust

Age: 61		PATRICIA A GAZDA, Sister and Conservator of the Estate, is Petitioner. I&A filed 7-31-12 indicates \$98,846.00.	NEEDS/PROBLEMS/COMMENTS:
DOB: 3-5-51			
		Petitioner seeks authority to deposit \$96,854.57 into the Master Trust of California as a <u>special needs trust</u> for the Conservatee.	<p>Note: Petitioner was appointed Conservator of the Estate without bond on 12-8-11. The Order indicates funds are to be placed in a blocked account and a Special Needs Trust may be established pursuant to court approval on separate petition.</p> <ol style="list-style-type: none"> The proposed fee schedule indicates a 2.00% annual management fee, which is more than twice the rate typically allowed by this Court (0.75%) and higher than other institutional trustees (typical range 0.65-1.50%). The Court may require adjustment until review of accounting and further order of the Court. If granted, the Court will set a status hearing in <u>this conservatorship case</u> for filing the First and Final Account on 11-15-12. If granted, the Court will assign a <u>new case number for the Special Needs Trust</u> pursuant to Local Rule 7.1.2., and will set status hearings in the new case as follows: <ul style="list-style-type: none"> - 11-15-12 filing of trustee's bond - 1-4-13 filing of Inventory and Appraisal - 1-3-14 filing of the First Account Need order. The order must contain the terms of the trust and comply with Local Rule 7.6.1.
Aff.Sub.Wit.			
✓	Verified	Petitioner states the Conservatee is a social security and Medi-Cal recipient who has received funds that would otherwise disqualify him from continuing to receive such benefits.	
	Inventory		
	PTC	The Master Trust of California is a pooled trust and provides the most economical means of managing the funds as none of the Conservatee's family members are willing and/or capable of managing said funds.	
	Not.Cred.		
✓	Notice of Hrg	The trust complies with Probate Code §2580 and Cal. Rules of Court 7.903 and Petitioner requests that its terms be approved by the Court and Petitioner be authorized and directed to execute any and all documents required to establish the trust on behalf of the Conservatee and to transfer the sum of \$96,854.57 to the trustee.	
✓	Aff.Mail		
	Aff.Pub.	Petitioner states this will leave a balance of \$2,111.00, which is necessary to cover costs advanced by counsel and will be addressed in Petitioner's First and Final Account and Petition to Terminate Conservatorship, which will be filed after the special needs trust has been funded.	
	Sp.Ntc.		
	Pers.Serv.	<p>Petitioner prays for an Order authorizing and directing Petitioner execute any and all necessary paperwork required to establish the Master Trust of California for Jack N. Allen, Jr., and to deposit the sum of \$96,854.57 from the conservatorship account to the Master Trust of California for the benefit of Jack N. Allen, Jr.</p>	
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Reviewed by: skc

Reviewed on: 9-5-12

Updates:

Recommendation:

File 5 - Allen

(1) Petition for Final Distribution Upon Waiver of Account and (2) for Allowance of Compensation for Ordinary Services [Prob. C. 10810, 10954, 11600]

DOD: 11/23/2011		MICHAEL B. SHAHBAZIAN , Administrator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
Cont. from		Accounting is waived.	
	Aff.Sub.Wit.	I&A - \$1,699,725.00	
✓	Verified	POH - \$1,699,725.00	
✓	Inventory	Administrator – Waive	
	PTC		
✓	Not.Cred.	Attorney - \$29,997.25 (Statutory)	
✓	Notice of Hrg		
✓	Aff.Mail	Distribution, pursuant to intestate succession, is to:	
	Aff.Pub.		
	Sp.Ntc.	Steven L. Shahbazian -1/3 interest in real property & personal property	
	Pers.Serv.		
	Conf. Screen	Michael B. Shahbazian -1/3 interest in real property & personal property	
	Letters 02/21/2012		
	Duties/Supp	Robert G. Shahbazian -1/3 interest in real property & personal property	
	Objections		
	Video Receipt		
	CI Report		
✓	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
✓	FTB Notice		
			Reviewed by: KT / LV
			Reviewed on: 08/31/2012
			Updates:
			Recommendation: Submitted
			File 6 - Shahbazian

Atty Wright, Janet L. (for Kate Singh & Hubert Mitchell/Co-Conservators of the Person)

Atty LeVan, Nancy J. (Court appointed for Conservatee/Petitioner)

Petition for Attorney Fees and Order Terminating Appointment as Counsel for Conservatee

Age: 75 DOB: 07/17/37		NANCY LEVAN , Petitioner, was Court appointed to represent the Conservatee on 03/02/12.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 08/22/12</u>
		KATE SINGH and HUBERT MITCHELL , were appointed co-conservators of the Person and BRUCE BICKEL was appointed conservator of the estate on 03/29/12.	
Cont. from 082212		Petitioner requests fees in connection with the representation of the Conservatee for the Petition to appoint a Conservator.	
	Aff.Sub.Wit.		
✓	Verified	Petitioner asks that she be paid from the conservatorship estate for 12.15 hours @ \$200.00 per hour for a total of \$2,430.00.	
	Inventory		
	PTC	Services are itemized by date and include review of documents, visits with client and court appearances.	
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: JF Reviewed on: 09/05/12 Updates: Recommendation: File 7 - Mitchell

**First Amended Petition for Letters of Administration; Authorization to Administer
Under the Independent Administration of Estates Act**

DOD: 02/29/2012	DOROTHY GARRISON , spouse is petitioner and requests appointment as Administrator.	NEEDS/PROBLEMS/COMMENTS: 1. Signature on the Petition appears to be a copy and not an original. 2. The issue of bond has not been addressed on the Petition at 3(d)(1) or 3(d)(2). 3. #8 of the Petition does not provide the relationship of each of the persons listed to the Decedent. 4. Need Notice of Petition to Administer Estate. 5. Need proof of service of Notice of Petition to Administer Estate on the following: <ul style="list-style-type: none"> • Frank Garrison • Marry Garrison • Sandy Garrison • Jacob Garrison • Brook Masters • Randy Scott Avenell • Ricky Brian Avenell • Stacy Renee Corwin 6. Need Confidential Supplement to Duties & Liabilities of Personal Representative. 7. Need Order 8. Need Letters <p align="center"><u>Please see additional page</u></p>
Cont. from 080612	Full IAEA -o.k.	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	Decedent died intestate.	
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.	Residence: Clovis	
<input type="checkbox"/> Notice of Hrg	Publication: The Business Journal	
<input type="checkbox"/> Aff.Mail	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/> Aff.Pub.	Estimated value of the estate:	
<input type="checkbox"/> Sp.Ntc.	Personal property - \$17,000.00	
<input type="checkbox"/> Pers.Serv.	Real property - \$131,500.00	
<input type="checkbox"/> Conf. Screen	Total: - \$148,500.00	
<input type="checkbox"/> Letters	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/> Duties/Supp	Probate Referee: Rick Smith	
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order	<input checked="" type="checkbox"/>	
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

Reviewed by: KT / LV
Reviewed on: 09/04/2012
Updates:
Recommendation:
File 8 - Garrison

Note: If the petition is granted status hearings will be set as follows:

- **Friday, 02/08/2013 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, 11/01/2013 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

Dept. 303, 9:00 a.m. Thursday, September 6, 2012

DOD: 07/21/90		BARBARA JAMESON, daughter and trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner states:	1. Respondent's Objection to Petition for Instructions for Distribution is not verified by Archibald C. Shaw, III. 2. Need Order.
Cont. from		1. On 03/27/86, Archibald C. Shaw and Betty Ann Shaw, husband and wife, created certain separate trusts, including the ARCHIBALD C. SHAW SEPARATE PROPERTY TRUST (the "Trust"). 2. On 09/18/86, Archibald C. Shaw executed an AMENDMENT TO THE ARCHIBALD C. SHAW SEPARATE TRUST (the "First Amendment"). 3. On 01/03/90, Archibald C. Shaw executed the SECOND AMENDMENT TO THE ARCHIBALD C. SHAW SEPARATE TRUST (the "Second Amendment"). 4. Archibald C. Shaw had 4 children by a prior marriage to his marriage to Betty Ann Shaw: Archibald C. Shaw, III ("Buddy Shaw"), Barbara Jameson (Petitioner), Anne Tudesko, and Carey Shaw. Carey Shaw is not a beneficiary of the Trust. 5. Betty Ann Shaw had 3 children by prior marriages: Judith Haig Hansen, Donald Russell, and Cady Shaw. 6. Archibald C. Shaw adopted Cady Shaw. 7. In his Trust, Archibald C. Shaw provided for 4 of his children: Buddy Shaw, Barbara Jameson, Anne Tudesko, and Cady Shaw. 8. Archibald C. Shaw died on 07/21/90 a resident of Fresno County. The principal place of administration of the Trust has been and is currently Fresno County. 9. Upon the death of Archibald C. Shaw, Betty Ann Shaw and Buddy Shaw became successor co-trustees of the Trust. 10. The Trust provides that following the death of Archibald C. Shaw, all of the income of the Trust and so much of the principal as may be necessary to provide for hospital, medical and nursing care, and sufficient funds to maintain her accustomed standard of living, was to be paid to Betty Ann Shaw for the remainder of her life. 11. Following the death of Archibald C. Shaw, disputes arose between Betty Ann Shaw and Buddy Shaw concerning administration of the Trust and Betty Ann Shaw resigned as trustee.	
	Aff.Sub.Wit.		Reviewed by: JF Reviewed on: 09/05/12 Updates: Recommendation: File 9 - Shaw
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	w/	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	x	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Continued on Page 2

12. After resigning, problems escalated under the administration of the Trust by Buddy Shaw as sole trustee. Buddy Shaw failed to make distributions due Betty Ann Shaw and eventually Betty Ann Shaw brought an action in this Court to remove Buddy Shaw as trustee, compel distributions due her per the terms of the Trust and surcharge Buddy Shaw for breaches of trust and misconduct in his administration of the Trust.
13. After a contested trial before Judge James Quaschnick, the Court found that Buddy Shaw had breached the Trust in failing to administer the Trust in accordance with its terms and the interests of Betty Ann Shaw. The Court ordered Betty Ann Shaw be paid her continued support under the terms of the trust, removed Buddy Shaw as trustee and appointed Barbara Jameson and Cady Shaw as successor trustees. The Court awarded Betty Ann Shaw her attorney's fees and surcharged Buddy Shaw for sums he had received from the Trust, which the Court determined should be charged to his eventual interest or share of the Trust. The breaches of Trust by Buddy Shaw and resulting awards to remedy the breaches and the cost of the litigation severely depleted the liquid assets of the Trust and resulted in harm to the Trust from which the Trust has never fully recovered.
14. In March 2001, Cady Shaw submitted her resignation as co-trustee of the Trust. This Court, in case no. 532693-9, accepted the resignation of Cady Shaw and confirmed that Petitioner should thereafter act as sole trustee. Since then, Petitioner Barbara Jameson, has been and is now the sole trustee of the Trust.
15. Betty Ann Shaw died on 06/17/11. As a result of her death, the Trust is to be terminated and distributed. The Trust provides that certain mineral rights are to be distributed to the trustee of Archibald C. Shaw III Trust and that the remainder of the trust estate is to be distributed in equal shares to Buddy Shaw, Barbara Jameson, Anne Tudesko and Cady Shaw, except that the property and portion of the trust estate provided for Buddy Shaw, is to be held in a trust designated as the "ARCHIBALD C. SHAW III TRUST". Buddy Shaw, Barbara Jameson, Anne Tudesko, and Cady Shaw all survived Betty Ann Shaw and are now living.
16. Assets of the Trust remaining on hand for distribution include real property in Medford, Oregon and Madera County as well as cash in a Morgan Stanley bank account and mineral rights in Nevada with little to no value.
17. Petitioner has had the Trust's real property appraised and summaries of the appraisals are attached to the petition, a copy of which has also been provided to all beneficiaries of the Trust.
18. Buddy Shaw and Anne Tudesko have advised Petitioner that they oppose the sale of the Trusts real property in Madera consisting of 6 parcels comprising 306 acres because it has been in the family for many years and would like to see it retained for future generations. Buddy Shaw and Anne Tudesko proposed after Betty Ann Shaw's death that the Trust's real property be distributed to the beneficiaries in undivided equal interests. Cady Shaw and Petitioner have both consistently indicated that they do not wish to co-own real property with Buddy Shaw or his trust, or with Anne Tudesko. Neither Cady Shaw nor Petitioner have children and do not use the Madera property.
19. Petitioner therefore proposed a non prorata distribution which Petitioner believes takes into account as best possible the previously expressed wishes of beneficiaries, provides for a distribution in accordance with the terms of the Trust and prior Court orders, and would allow for a prompt termination and distribution of the Trust.
20. California Probate Code § 16246 provides that a trustee has the power to make distributions in divided or undivided interests, to adjust for differences in valuation and to make distribution prorata or non-prorata. Additionally, here the Trust authorizes and grants Petitioner as trustee the power to make non-prorata distributions in kind in Section 7.9 g of the Trust.
21. Cady Shaw has advised Petitioner that she approves petitioner's proposed distribution. Buddy Shaw initially advised Petitioner that he opposed the proposed distribution on the basis that the Oregon property, which under the proposed distribution would be distributed to Cady Shaw and Petitioner is leased as a roller rink and currently produces more income than the Madera property.

Continued on Page 3

22. Anne Tudesko advised Petitioner that she opposes the proposed distribution but did not state a reason for her opposition.
23. Following petitioner's proposed distribution, Buddy Shaw and Anne Tudesko changed their prior long held desire to retain the Madera property and have indicated they now have no interest in or desire to retain the land. Given the historical problems the Trust had when administered by Buddy Shaw, the reversal of position by Buddy Shaw and Anne Tudesko concerning the Madera land, and Petitioner's inability to obtain an agreement by all beneficiaries for a plan of distribution, Petitioner believes it is necessary to now obtain Court instructions and authorization before making distribution.
24. Petitioner believes that her proposed distribution is fair and reasonable, is in accordance with the terms of the Trust and is supported by a prudent course based on the following considerations:
- a) The proposal is based on values established by the independent appraisals and would result in each beneficiary receiving distribution in accordance with their entitlement under the terms of the Trust and Court orders.
 - b) Petitioner, as trustee, is authorized by California Law to make non-prorata distributions in kind, and the Trust also specifically authorizes and grants Petitioner the power to make such distribution.
 - c) The proposal addresses as best possible the original stated interest of Buddy Shaw and Anne Tudesko of keeping the larger Madera County parcel.
 - d) The proposal avoids co-ownership by beneficiaries who do not desire to be co-owners, pairs co-ownership of beneficiaries who have the most similar compatible interests and get along, allocates the larger Madera parcel to the beneficiaries who previously had long stated a desire to retain the property in the family, and pairs co-ownership of the remaining Madera parcels in the beneficiaries who have both indicated a wish to sell.
 - e) The "in kind" distribution will allow for prompt distribution and termination of the Trust and avoid likely significant delay and expenses which would be incurred if administration continues until all property is sold. The Trusts property in Oregon is improved for use as a roller skating rink. The smaller Madera parcels are primarily suited for use as rural residential home sites. Given the nature of these properties and present market conditions, Petitioner believes it would likely take several years to sell all the properties and, if properties are to be sold, would therefore require significant time to conclude administration and terminate the Trust.
25. Petitioner requests that the Court authorize and instruct Petitioner to distribute the Trust in accordance with Petitioner's proposed distribution.
26. In the event the Court does not approve and authorize the proposed distribution, Petitioner requests the Court's authorization to sell and liquidate real and other property of the Trust for such prices and on such terms as Petitioner deems reasonable and to distribute the cash proceeds. Petitioner anticipates it will likely take several years to sell all of the property at reasonable prices, and requests that the Court authorizes Petitioner to continue the administration of the Trust for such time as necessary to conclude sales at reasonable prices and terms.
27. The Judgment After Court Trial dated 07/24/97 in surcharging Buddy Shaw on account of breaches of trust, directed that \$38,011.06 be charged against his interest in the trust estate and directed that "such charge be settled and made by first distributing \$38,011.06 on account of each other remainder interest or share before the remaining balance is distributed or allocated as provided in the Trust." Such a \$38,011.06 distribution to each of the other three beneficiaries is necessary to equalize distributions given that the Court found Buddy Shaw had received that much from the Trust which should be charged to his share of the Trust. In response to Petitioner's proposed distribution, Buddy Shaw has taken different positions and appears to either ignore the surcharge or to take the position that the \$38,011.06 needs to be distributed to and divided among the three other beneficiaries. However, that position is contrary to the Judgment After Court Trial and the amount which should be distributed to the other beneficiaries under the Court's prior Judgment. The Court should instruct Petitioner that in making any distributions that Petitioner should distribute \$38,011.06 more to each of the other three beneficiaries before making any distribution to Buddy Shaw.

Continued on Page 4

28. The beneficiaries of the Trust are to receive their share of Trust assets outright and free of trust except for Buddy Shaw whose share is left in trust. The provisions of the Trust leave certain mineral rights and 25% of the residue of the Trust to Buddy Shaw as trustee of the ARCHIBALD C. SHAW III TRUST. No other person is specifically named to act as trustee of the ARCHIBALD C. SHAW III TRUST. Under the terms of the ARCHIBALD C. SHAW III TRUST, principal distributions can only be made by a trustee other than Buddy Shaw. Therefore principal distributions cannot be made from that trust unless the Court appoints a trustee of Section 6.3 of that trust is interpreted to name Petitioner as a co-trustee of that trust. Petitioner does not wish to and declines to act as trustee of the ARCHIBALD C. SHAW III TRUST.
29. The Court's Judgment After Court Trial removed Buddy Shaw as trustee of the ARCHIBALD C. SHAW SEPARATE PROPERTY TRUST, thus raising some doubt as to whether he can now act as trustee of the ARCHIBALD C. SHAW III TRUST. The Trust specifically names no other trustee to act as trustee. The Court should instruct Petitioner as to who is to serve as trustee of the ARCHIBALD C. SHAW III TRUST. If the Court determines BUDDY SHAW cannot now act as trustee as a result of his prior removal as a trustee, the Court should appoint a successor trustee of that trust to receive the distributions from petitioner as trustee.

Petitioner prays for an Order:

1. Authorizing and instructing petitioner as trustee to distribute the Trust and trust estate as proposed by Petitioner and set out in this petition;
2. In the event the Court does not authorize and instruct the proposed distribution, authorizing petitioner as trustee to continue administration of the Trust for such time as necessary, and sell property of the Trust and trust estate at prices and terms determined reasonable by Petitioner and to distribute cash following such sales;
3. Instructing Petitioner that \$38,011.16 be distributed to each of the three beneficiaries other than Buddy Shaw before any distribution is made to the trustee of the ARCHIBALD C. SHAW III TRUST on account of the interest of Buddy Shaw; and
4. Determining who should act as trustee of the ARCHIBALD C. SHAW III TRUST and instructing Petitioner as to whom she should make distributions on account of the interest of Buddy Shaw and the ARCHIBALD C. SHAW III TRUST.

Respondent's Objection to Petition for Instructions for Distribution filed 08/31/12 by Buddy Shaw and Anne Tudesko

admits and denies certain allegations in Petitioner's petition and states: Archibald C. Shaw ("Decedent") died on 07/21/90. Following his death, Buddy and Betty Ann began to act as co-trustees of Decedent's Separate Property Trust. At some point, Betty Ann became unable to act as co-trustee and Buddy began acting as the sole successor trustee of the Trust. In 1996, Betty Ann brought an action against Buddy for breach of trust. After a Court Trial, Buddy was surcharged and removed as trustee of the Trust and Barbara Jameson and Cady Shaw were appointed as successor co-trustees. Cady Shaw resigned as co-trustee in 2001 and the Court accepted her resignation and confirmed that Barbara would act as the sole trustee of the Trust. Betty Ann died on 06/17/11. After her death, Barbara attempted to administer the Trust so that final distributions could be made. In doing so, she invited Buddy, Anne and Cady to discuss the various properties held in the Trust and to agree as to how the properties would be distributed among the 4 beneficiaries. The four beneficiaries met on 08/13/11. At the meeting, Barbara and Cady took adversarial positions to Anne and Buddy. Barbara and Cady also attempted to force terms that effectively would have required Anne and Buddy to surrender the lion's share of the Trust to them. Ultimately, they came to agreement as to how the properties should be equitably divided among them. Barbara, however, claimed that the distribution was not fair and refused to distribute the property according to their agreement. Currently the main dispute between Barbara and Respondents concerns which beneficiaries will receive the Medford property. The property is subject to a long-term lease for use as a skating rink, Medford Skate. Medford Skate is the only income producing property in the Trust estate. Further, Respondents believe that all four beneficiaries desire Medford Skate because its actual value exceeds its appraised value. Respondents believe that the property generates significantly more income than its appraisal suggests.

Continued on Page 5

After the 08/13/11 meeting, the four beneficiaries continued to discuss how the properties should be divided among them. Barbara refused to meet again and continued to attack Buddy and Anne during these conversations. Barbara and Cady now appear to have taken a mutual position adverse and hostile to Buddy and Anne and more recent requests to have a meeting to resolve these differences have been declined.

The most recent offer from Barbara and Cady for the division of the Trust estate called for the distribution of the largest Madera parcel and one of the smaller parcels to Buddy and Anne and the remaining smaller parcels and Medford Skate to Barbara and Cady. Barbara advised Buddy and Anne that she believed the offer was fair and reasonable. Anne and Buddy do not agree to the proposal on the ground that it is not a fair and equitable division of the Trust estate among them. Anne and Buddy responded that they preferred to take distribution of Medford Skate and the four smaller Madera parcels and proposed the Barbara and Cady receive the large Madera property and parcel 4. Barbara refused this counter offer despite her previous assertion that such a division was fair. While Anne and Buddy would prefer not to co-own the property with Barbara and Cady, they did previously propose that all 4 of the them take equal shares of all the real property or alternatively the four beneficiaries share ownership of Medford Skate but divide the Madera properties among them. Cady and Barbara refused these offers unless Anne and Buddy would also agree to be "silent partners" and allow Barbara to have exclusive management of the shared properties. Anne and Buddy would not agree to convey such management authority to Barbara alone.

Anne and Buddy acknowledge that the 4 beneficiaries have been unable to agree as to how the assets of the Trust should be distributed among them, however, it is apparent that Barbara's proposed distribution is unfair and unreasonable because she would distribute to herself the only income-producing property in the Trust and distribute to Buddy and Anne real properties in Madera that she herself admits would take several years to sell due to the nature of the properties and present market conditions. Anne and Buddy allege that Barbara's proposed distribution of the Medford property to herself and Cady, to the exclusion of Buddy and Anne constitutes a violation of her fiduciary duties as trustee. Pursuant to Probate Code § 16003, Barbara is obliged to deal impartially with the beneficiaries and is also obliged under § 16081 to exercise her discretionary powers reasonably. Anne and Buddy submit that the proposed distribution plan would violate these obligations because she would distribute to herself the only income producing and thus the most valuable real property in the Trust, while saddling Buddy and Anne with properties that she knows they do not want and will be unable to sell. Barbara therefore proposes to favor herself over two other beneficiaries of the Trust.

For these reasons, Anne and Buddy request the Court decline to instruct Barbara to distribute the real properties in the manner proposed in her Petition for Instructions. Instead, they urge the Court to require that all of the real properties be liquidated and the proceeds divided among the beneficiaries or, in the alternative, that all the beneficiaries be given an equal share in each and every one of the real properties held in Trust. As a further alternative, Anne and Buddy request the Court order the parties to participate in mediation to try and resolve how the Trust will be divided among them.

Additionally, Buddy requests that the Court decline to appoint either Barbara or Cady as trustee of the Archibald C. Shaw III Trust. Barbara does not wish to be appointed as trustee as stated in her Petition and does not feel that Cady is an appropriate choice given the hostility that exists between them due to this dispute. Buddy believes that he was always intended to be the trustee of the Archibald C. Shaw III Trust. Further, Respondents admit that Buddy was surcharged \$38,011.06 and that the quoted language is present in the Judgment After Court Trial, however, Respondents deny that the Judgment requires that a distribution of \$38,011.06 be made to each of the three other beneficiaries. Rather, Respondents believe that the total sum of \$38,011.06 – not \$114,003.18 – is to be distributed among the three other beneficiaries.

Continued on Page 6

Respondents pray for an Order:

1. Instructing the parties to mediate this dispute;
2. Alternatively, instructing Petitioner to distribute the real properties of the Trust so that each beneficiary gets an equal share of each and every parcel of Trust real property;
3. Alternatively, instructing Petitioner to liquidate the real properties comprising the Trust estate and distribute the net proceeds pursuant to the Terms of the Trust and the July 24, 1997 Order;
4. Finding that the surcharge of Buddy set forth in the July 24, 1997 Order does not require the distribution of \$38,011.06 to each of Anne, Barbara, and Cady, but rather a total distribution of \$38,011.06 divided equally among the said three beneficiaries;
5. Instructing Petitioner that, to satisfy the surcharge order, Buddy may pay cash in the amount of \$38,011.16 to Barbara as trustee to enable Barbara to make the proposed equal distributions of the proceeds of the sale of the Trust properties; and
6. Determining who should act as trustee of the Archibald C. Shaw III Trust.

Petition for Letters of Administration; Authorization to Administer Under IAEA (Prob.
C. 8002, 10450)

DOD: 07/03/2011		BARBARA R. MORGAN , mother is petitioner and requests appointment as Administrator without bond.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner is sole heir & waives bond.	1. Need date of death of decedent's father per Local Rule 7.1.1 (D).
Cont. from		Full IAEA –?	2. Need Confidential Supplement to Duties and Liabilities of Personal Representative.
<input type="checkbox"/>	Aff.Sub.Wit.		3. Need Affidavit of Publication.
<input checked="" type="checkbox"/>	Verified		Note: If the petition is granted status hearings will be set as follows:
<input type="checkbox"/>	Inventory	Decedent died intestate	• Friday, 02/01/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u>
<input type="checkbox"/>	PTC		• Friday, 10/25/2013 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution.
<input type="checkbox"/>	Not.Cred.		Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
<input checked="" type="checkbox"/>	Notice of Hrg	Residence: Clovis Publication: Needed	
<input checked="" type="checkbox"/>	Aff.Mail	w/	
<input type="checkbox"/>	Aff.Pub.	x	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters	Probate Referee: Steven Diebert	
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: KT / LV
			Reviewed on: 08/31/2012
			Updates:
			Recommendation:
			File 10 - Shaver

Atty Barrus, John E., of Barrus & Roberts (for Jesus Torres, Executor)

Status Hearing Re: Filing of the First Account or Petition for Final Distribution

DOD: 10/25/2006	JESUS TORRES, son, was appointed Executor with Full IAEA without bond and Letters issued on 2/20/2007.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 07/09/2012.</u> 1. Need first account, petition for final distribution, or current status report pursuant to Local Rule 7.5(B).
Cont. from 112211, 020712, 050712, 070912	Final Inventory & Appraisal filed on 4/11/2007 shows an estate value of \$618,100.00 .	
Aff.Sub.Wit.	Notice of Status Hearing filed 5/20/2010 set a status hearing on 7/6/2010 for failure to file a first account or petition for final distribution. The status hearing had been continued several times for resolution of pending matters in the estate, with the <i>Minute Order</i> dated 1/10/2011 from the last status hearing setting a status hearing on 7/11/2011. Order Confirming Sale of Real Property filed on 7/8/2011 confirmed sale of the estate real property for \$40,000.00 . Minute Order dated 7/11/2011 from the continued status hearing states no appearances were made. The Court indicates for the record that Mr. Barrus is the attorney of record. The Court orders that no one other than Mr. Barrus is to file any documents on behalf of Mr. Torres. The Court sets the matter for an Order to Show Cause on 8/22/2011 and orders John Barrus and Jesus Torres to be present at that hearing. Minute Order dated 8/22/2011 from the Order to Show Cause states counsel requests a continuance. Counsel advises the Court that he will continue to assist Mr. Torres. Matter continued to 11/22/2011 for status hearing. Minute Order dated 11/22/2011 [Judge Hamlin] states John Barrus appears by CourtCall. Continued at the request of Mr. Barrus. Matter set on 2/7/2012 for filing of the first account. Minute Order dated 2/7/2012 states counsel requests a continuance. Matter continued to 5/7/2012. Minute Order dated 05/07/12 states: Counsel advises the Court that the IRS list the paperwork.	Reviewed by: LEG/JF Reviewed on: 09/04/12 Updates: Recommendation: File 11 - Arteaga
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 9 DOB: 05/05/2003		Temporary Orders denied on 07/19/2012		NEEDS/PROBLEMS/COMMENTS:	
		JONI ALFORD, non-relative, is petitioner		Note: Per CI Report – Petitioner no longer wishes to pursue the guardianship and was planning to dismiss the petition.	
		Father: ERVIN GREEN		1. Need Notice of Hearing	
Cont. from		Mother: KAREEMAH WILLIAMS		2. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:	
	Aff.Sub.Wit.			<ul style="list-style-type: none"> Ervin Green (Father)- Unless the Court dispenses with notice Kareemah Williams (Mother))- Unless the Court dispenses with notice 	
✓	Verified		Paternal grandparents: Not Listed Maternal grandparents: Not Listed	3. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:	
	Inventory			<ul style="list-style-type: none"> Paternal Grandparents (Not Listed) Maternal Grandparents (Not Listed) 	
	PTC			4. UCCJEA does not provide the residence of the child for the past five years. The date of residence reflects 01/2012 to present.	
	Not.Cred.			Reviewed by: KT / LV	
	Notice of Hrg	x	Petitioner alleges: the father is suffering from mental issues and petitioner was asked by CPS to supervise the father and child. Father has stolen petitioner's personal belongings and threatened the safety of the petitioner, petitioner's family and the minor. The minor's mother gave the child to the father at six months of age and petitioner has been assisting the father since then.	Reviewed on: 09/04/2012	
	Aff.Mail	x		Updates:	
	Aff.Pub.			Recommendation:	
	Sp.Ntc.			File 12 – Williams	
	Pers.Serv.	x	Petitioner requests to be excused from noticing the father and the mother she states that it would be harmful to the child.		
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections		Court Investigator Jennifer L. Daniel's report filed 08/29/2012.		
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C.
 1820, 1821, 2680-2682)

Age: 68		TEMPORARY (PERSON ONLY) EXPIRES 9-6-12 ISABEL BARRIENTOS , daughter, is Petitioner and requests appointment as Conservator of the Person and Estate with medical consent and dementia medication and placement powers without bond. VOTING RIGHTS <u>NOT</u> AFFECTED Need Capacity Declaration. Petitioner states: Petition is blank. No facts are provided. Court Investigator Charlotte Bien filed a report on 8-27-12. Probate Referee: Steven Diebert	NEEDS/PROBLEMS/COMMENTS: <u>Court Investigator advised rights on 8-21-12.</u> Note: The temporary order also authorized Petitioner to move the Conservatee's residence to reside with Petitioner. Note: Examiner notes that the Petitioner also checked boxes for additional powers under Probate Code §§ 2590, 2351-2358, limited conservatorship, and dementia powers. 1. Need Capacity Declaration (GC-335) with Dementia Attachment (GC-335A) for consideration of medical consent and dementia medication and placement powers. <u>Note: Petitioner attached a physician's statement to her Confidential Supplemental Information form; however, the Capacity Declaration is a mandatory Judicial Council form that is necessary for the Court to make the findings required to grant medical consent and dementia powers. See GC-335.</u> SEE PAGE 2	
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			<input checked="" type="checkbox"/>
<input type="checkbox"/>	Aff.Mail			<input checked="" type="checkbox"/>
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	FTB Notice			
			Reviewed by: skc Reviewed on: 9-5-12 Updates: Recommendation: File 13 - Barrientos	

NEEDS/PROBLEMS/COMMENTS:

2. Need Citation (GC-322).
3. Need proof of personal service of Citation with a copy of the Petition at least 15 days prior to the hearing pursuant to Probate Code §1824 on Mr. Barrientos.
4. Need Notice of Hearing (Form GC-020).
5. Need proof of service of Notice of Hearing at least 15 days prior to the hearing on all relatives pursuant to Probate Code §1822.

Note: Petitioner does not list relatives on the Petition; however, the Court Investigator's Report indicates the following relatives:

- Guadalupe Barrientos (Spouse)
- Diana Gamez (Daughter)
- Alice Ayala (Daughter)
- Demetrio Barrientos (Son)
- Sylvia (Daughter)
- Cindy (Daughter)

6. Need Video Receipt (Local Rule 7.15.8.)
7. Need bond of \$16,500.00. Petitioner requests appointment as conservator of the estate without bond; however, bond is required for every conservator of the estate including cost of recovery pursuant to Probate Code 2320(c)(4) and Cal. Rules of Court 7.207. Petitioner states the estimated value of the estate is \$15,000.00; therefore Examiner calculates bond should be \$16,500.00.
8. When granted, the Court will set status hearings as follows:
 - 11-9-12 Filing of bond
 - 1-19-13 Filing of Inventory and Appraisal
 - 1-17-14 Filing of First Account

Note: Due to the above issues, continuance for compliance may be necessary. Examiner has retained the Order and will prepare accordingly if/when granted.